



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Attorney Docket No. 2005_0152A
Sadanobu SHIRAI et al. : **Confirmation No. 3564**
Serial No. 10/524,858 : Group Art Unit 1615
Filed February 18, 2005 : Examiner Hasan Syed Ahmed
PATCHES CONTAINING TULOButEROL : **Mail Stop: AMENDMENT**

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Office Action of August 18, 2009, the time for responding thereto being extended for two months in accordance with a Petition for Extension of Time submitted herewith, Applicants submit the following remarks in support of the allowability of the present claims. Further and favorable reconsideration is respectfully requested in view of these remarks.

Thus, the rejection of claims 1-4 under the first paragraph of 35 U.S.C. §112 is respectfully traversed.

The Examiner states that the instant specification indicates that acrylic adhesives are not preferred, but takes the position that there is no absolute exclusion indicated, as is currently claimed.

In previously amending the claims to exclude acrylic adhesives, Applicants referred to the disclosure at page 5, lines 4-13 of the specification. This disclosure includes the statement that "the patch related to the present invention does not need such substances" (page 5, lines 9-10), i.e. "an acrylic adhesive" (page 5 line 6). Although the Examiner states that there is no absolute exclusion of acrylic adhesives indicated in the specification, Applicants note that a lack of literal basis in the specification for a negative limitation may not be sufficient to establish a *prima facie* case for lack of descriptive support (MPEP 2173.05 (i)). As also stated in this MPEP